



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,339	08/31/2001	Edmund K. Waller	05010.0087U1	1418

7590 08/05/2002

NEEDLE & ROSENBERG, P.C.  
The Candler Building  
Suite 1200  
127 Peachtree Street, N.E.  
Atlanta, GA 30303-1811

EXAMINER

BELYAVSKYI, MICHAIL A

ART UNIT	PAPER NUMBER
----------	--------------

1644

DATE MAILED: 08/05/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Washington, D.C. 20231

09/945339

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER
----------

ART UNIT	PAPER
----------	-------

1644 9

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

Applicant's election with traverse of Group I (claims 1-6 and 15-20) in Paper No. 8, filed on 5/24/02 is acknowledged.

Applicant traverse the Restriction Requirement on the grounds that the inventions must be both independent and distinct and an undue search burden on the examiner. However, MPEP 803 states that the Inventions be either independent or distinct and a burden on the Examiner if restriction is required.

Regarding applicant's comments about undue burden, the MPEP 803 (August 2001) states that "For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search". The Restriction Requirement enunciated in the previous Office Action meets this criterion and therefore establishes that serious burden is placed on the examiner by the examination Groups I-IV. The Inventions are distinct for reasons elaborated in paragraphs 3-5 of the previous Office Action.

The requirement is still deemed proper and is therefore made FINAL.

Claims 7-14 and 21-58 have been withdrawn from further consideration by the examiner under 37 CFR 1.142(b), as being drawn to a nonelected invention.

Applicant's response is not fully responsive to the prior Office Action Paper No. 7, mailed on 4/24/02, because of the following:

.In the prior Office Action it was stated in the paragraph No.8 :

This application contains claims directed to the following patentably distinct species of the claimed Invention I, IV wherein transplant is

- A) allogeneic organ or
- B) xenogeneic organ.

Applicant is further required to elect a single disclosed species for the transplant organ.

Applicant is advised that the response to this requirement to be complete must include an election of the species as it reads on each species election set forth above to be examined even though the requirement be traversed.

Since the above -mention submission appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD OF (1) MONTH OR THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michail Belyavskyi whose telephone number is (703) 308- 4232. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission.

Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Michail Belyavskyi, Ph.D.  
Patent Examiner Technology Center 1600  
June 24, 2002,

PHILLIP GAMBEL  
PHILLIP GAMBEL, PH.D  
PRIMARY EXAMINER  
RECEIVED  
6/25/02